

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ERNEST PORTER : CIVIL ACTION
: :
: vs. :
: :
: JEFFREY A. BEARD, et al. : NO. 07-3456

O R D E R

AND NOW, this 22nd day of October, 2008, upon careful and independent consideration of the petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, the response, the supplemental response, and the second supplemental response, and after review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated September 29, 2008, **IT IS ORDERED** that:

1. Petitioner's objections to the Report and Recommendation are **DENIED**.
2. The Report and Recommendation is **APPROVED** and **ADOPTED**.
3. The petition for a writ for habeas corpus filed pursuant to 28 U.S.C. § 2254 is **DENIED WITHOUT PREJUDICE** and **DISMISSED** without an evidentiary hearing; and
4. There is no probable cause to issue a certificate of appealability.

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BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY, Sr. J.